

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

ECOFACOR, INC.,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Civil Action No. 6:20-cv-00075 (ADA)

JOINT STATEMENT REGARDING CLAIM CONSTRUCTION

In preparation for trial, the parties respectfully submit this Joint Statement Regarding Claim Construction to memorialize their understanding of the parties’ agreed constructions and the Court’s constructions of disputed terms. For clarity, this submission only includes constructions for terms within claims that are presently asserted.

The parties’ agreed construction is as follows:

Claim Term	Agreed Construction
“compares” (’327 patent, claim 1)	“analyze to determine one or more similarities or differences between”

On December 8, 2020, the Court issued preliminary constructions addressing the parties’ disputed constructions, all but one of which were accepted by the parties and formally adopted by the Court. *See* Email from R. Earle to Parties Regarding Preliminary Constructions (dated Dec. 9, 2020 and timestamped 12:40 pm CT). On December 9, 2020, the Court held oral argument regarding the remaining disputed term (“programmable thermostat”), which is no longer at issue because it appears only in claims that are no longer asserted. *See* Markman Hearing Tr. (Dec. 9, 2020). The Court’s constructions of the disputed terms are as follows:

Claim Term	Court's Construction
“rate of change in inside temperature” (’327 patent, claim 1); “rate of change in temperature inside the structure” (’327 patent, claim 5)	“the difference between inside temperature measurements divided by the span of time between the measurements”
“measurement[s]” [“measurement[s]”; “measurement of outside temperatures”; “temperature measurement inside a structure”; “temperature measurements from inside the structure”; “measurement of at least one characteristic of the building”; “measurement of the current outdoor temperature”] (’327 and ’382 patents, all claims)	Plain and ordinary meaning
“outside temperature” (’327 patent, claim 1)	Plain and ordinary meaning

Dated: January 26, 2022

By: /s/ Reza Mirzaie
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Respectfully submitted,
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 26, 2022, the foregoing was served on all counsel of record by e-mail.

/s/ Reza Mirzaie